

have been confirmed as during the first 9 months of the first Bush administration and the Clinton administration. Remember, 4 months.

Chairman LEAHY and the Senate are ahead of the confirmation pace for judicial nominations for the first year of the Bush administration and the first year of the Clinton administration.

Since July of this year, the Senate has already confirmed four court of appeals judges and a fifth has already had a hearing and is being scheduled for committee consideration as soon as the followup questions are answered. That judge would have been reported out today had the questions been answered of one of the Senators, I believe from Wisconsin. Senator FEINGOLD had some questions that had not been answered. Because of that and Senate tradition, you can't report out nominations if questions of members of the committee have not been answered.

In 1989, five court of appeals judges were confirmed for the entire year. We are on a pace to confirm between six and eight this year.

Chairman LEAHY has already held six hearings involving judicial nominees since July 10, including two in July and two unprecedented hearings during the August recess. Most of us were out doing other things. I am not afraid to acknowledge, I took a vacation for several weeks in August. When PAT LEAHY was here holding hearings, I was vacationing. Unprecedented hearings, two hearings during August, a hearing in September in the aftermath of the September 11 terrorist attack, a hearing on October 4, and, of course, the hearing today about which I have talked.

By contrast, in the 6½ years the Republicans chaired the Judiciary Committee from 1995 to 2001, in 34 months, they held no confirmation hearings for judicial nominations, 34 months. In 30 months, they held a single confirmation hearing. And in only 12 months did they hold at least two hearings involving judicial nominees.

You can bring charts on the floor, as was done earlier saying, Senator LEAHY, when he holds a hearing, doesn't do as many as we did. As I have said, I am happy to play this statistics game. I am happy to do that. Anyone who wants to do that, I can do it. As everyone knows, you can do whatever you want with statistics. But I am giving the Senate the statistics. Let someone come and disagree if they want. I am telling you this will be on the record of the Senate forever.

If the Senate adjourns, let's say, by the Thanksgiving recess, which probably will be the case, as it did in 1989 and 1993, Chairman LEAHY intends to hold additional hearings for judicial nominees. That would bring the total of the year to maybe as many as 10 hearings. The Senate could be in a position to confirm between 25 and 30 judges in this very short session during which the chairman of the Judiciary Committee took over this summer.

During the entire first year of the Clinton administration, the Judiciary

Committee held only six hearings. During the entire first year of the first Bush administration, the committee held seven hearings.

Chairman LEAHY will hold as many as 10, even though he has not had the whole year. I remind everybody, during the first 6 months of this year, not a single confirmation hearing was held and not a single confirmation took place. Those are the facts.

The comparisons of the minority are simply unfair. Chairman LEAHY and the Democratic Senate have been criticized for only having confirmed eight judicial nominations so far this year. That number has been compared to totals from the end of previous years: In 1989, 15 judges were confirmed; in 1993, 27. This year's number was achieved between July 10 and October 15, and it is still growing. The totals against which it is being compared counts confirmations through late November in both years.

Now, as a result of the "unprecedented"—I use the word again—hearing in the President's room, we are going to, on Tuesday or Wednesday, vote out four more judges or several more judges. I think it is four. We are going to do these U.S. attorneys. We are going to do Mr. Bybee.

Mr. LEAHY. Mr. President, if the Senator will yield.

Mr. REID. Mr. President, I didn't know Senator LEAHY was here. I am glad to see the chairman.

Mr. LEAHY. I don't always enjoy the statements I hear on the floor, but I must admit, I was relishing this one.

Mr. REID. If I had known you were here, I would have been more effusive.

Mr. LEAHY. I think it was bad enough. But if my wife is watching this, she is going to wonder who this person is and who is coming home tonight with all these nice things you have said about me. I thank the Senator from Nevada who has helped make it possible.

He and Senator DASCHLE helped us get the rooms under difficult circumstances so we could have this hearing. I had the markup this morning, where we sent out, between judges and U.S. attorneys, about 18 people, virtually all of whom were there on the recommendation of Republican Senators. Because of his help, we were able to get a hearing room for this afternoon.

The point the Senator made was a good point. He mentioned the judicial nominee for Nevada. He traveled 3,000 miles to be here for a hearing, assuming, of course, we were going to have the hearing today. Those plans came before the anthrax scare and, all of a sudden, everything shut down. The Senator from Nevada, in his usual way, where he worries about everybody, it seems, came to me and said: People came this distance; can we do something to help them out? Of course, we can. We have been trying to do that to accommodate everybody.

There is one thing I find with great amusement, and that is when people

say "look at the vacancies." Well, that is right, Mr. President, there are vacancies. President Clinton nominated people for virtually all of those vacancies, and they were not even allowed to have a hearing, to say nothing about a vote.

It reminds me of when the same people blocked President Clinton's nominees from having a hearing or a vote, and now they say we have all these vacancies. That is like the kid who killed his parents. When he was brought into court, he said, "Your Honor, have mercy on me, I am an orphan."

What can we say about these vacancies? Lordy, lordy, I wish they said that last year when we had the nominees ready to go.

Having said that, I don't intend to play that kind of game. We are moving as fast as we can. I point out to Senators that we have had a few problems. The Senator from Nevada pointed out that when the Republicans controlled the Senate, they didn't hold a single hearing or confirm a single judge. They have all been done since we took over, and they are all President Bush's nominees. We have had a few things going. I wasn't given a committee until July, about 2 or 3 weeks before the August recess. That is why I had staff stay here—to hold hearings during August. We have had a couple of things going on before that committee.

I am sure nobody has forgotten what happened 5 weeks ago in this country, on September 11, with the Pentagon and the World Trade Towers. We have been drafting a massive antiterrorism bill. We were given a deeply flawed piece of legislation by the Attorney General and the White House. I have worked with them and have tried to improve it, and we have done that. So now we have something both Republicans and Democrats can support, and we are going to pass it next week. That has taken a great deal of time.

As the Senator from Nevada has pointed out several times on the floor, speaking of the various Members and staff who have worked on it, I can go home at night, but most of them stay and spend the rest of the night working on it. So a lot has been done.

My earlier reason for coming to the Chamber was to thank the Senator from Nevada, and the Senator from South Dakota, Mr. DASCHLE, for keeping us in today. We accomplished an enormous amount. We accomplished more than any piece of legislation written today, more than any nominee, more than anything we voted on: we demonstrated to the United States of America that the Senate is open for business. Senators are here doing their duty.

Again, I thank the Senator from Nevada for his long-term friendship and for his kind words.

I yield the floor.

Mr. REID. Mr. President, this says it all: The average time between nomination and confirmation for court of appeals judges this year has been approximately 100 days, which includes the